

Amended complaint

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Xavier oneil

Plaintiff,

[Insert full name of plaintiff/prisoner]

-against-

Correctional Office S. Rodriguez

Defendant(s).

[Insert full name(s) of defendant(s). If you need additional space, please write "see attached" and insert a separate page with the full names of the additional defendants. The names listed above must be identical to those listed in Part I.]

Docket Number

18-CV-3287(AMO)(LB)

CIVIL RIGHTS COMPLAINT

42 U.S.C. § 1983

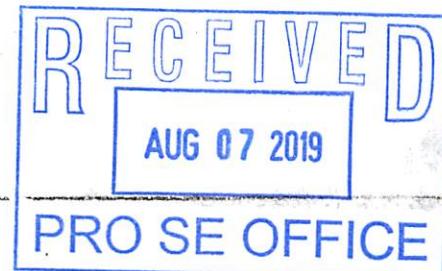
JURY DEMAND

YES NO

IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ AUG 07 2019 ★

BROOKLYN OFFICE



- I. Parties: (In item A below, place your name in the first blank and provide your present address and telephone number. Do the same for additional plaintiffs, if any.)

A. Name of plaintiff Xavier oneil

If you are incarcerated, provide the name of the facility and address:

Hazelton 4.S.P

Bryceton mills WV 26525

P.O. Box. 2000

Prisoner ID Number: 87652053

If you are not incarcerated, provide your current address:

Telephone Number: _____

B. List all defendants. You must provide the full names of each defendant and the addresses at which each defendant may be served. The defendants listed here must match the defendants named in the caption on page 1.

Defendant No. 1

Full Name

S. Rodriguez

Job Title

Correctional officer

MDC Brooklyn Metropolitan Detention center

Po Box 329602 Brooklyn, NY, 11232

Address

Defendant No. 2

Full Name

Job Title

Address

Defendant No. 3

Full Name

Job Title

Address

Defendant No. 4

Full Name

Job Title

Address

Defendant No. 5

Full Name

Job Title

Address

II. Statement of Claim:

(State briefly and concisely, the facts of your case. Include the date(s) of the event(s) alleged as well as the location where the events occurred. Include the names of each defendant and state how each person named was involved in the event you are claiming violated your rights. You need not give any legal arguments or cite to cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. You may use additional 8 1/2 by 11 sheets of paper as necessary.)

Where did the events giving rise to your claim(s) occur? In The Metropolitan Detention center In Brooklyn ~~special~~ Special housing unit Range 4 cell 17.

When did the events happen? (include approximate time and date) August 17-2017
Between 12:00 pm - 1:00 pm

Facts: (what happened?) ON August 17 2017 APP-12:00-1:00pm

While Being escorted outside of my cell to a visit I got into a argument with a officer named S. Rodriguez
The officer told she was not taking me to my visit and that it was cancelled. I told that she cant refuse to take me to my visit. the officer called for assistance she then open my cell door I told the officer she is acting like a bitch. She ASKed me to repeat myself when I did
She punched me in the face. the other officer pulled me away from her and asker her what was wrong with her he asked me was I okay then escorted me to my visit
Since that incident she has threatned me to keep my mouth shut. I let the warden know and exhausted administrative remedy's I have been taunted by her calling me a snitch.

II.A. Injuries. If you are claiming injuries as a result of the events you are complaining about, describe your injuries and state what medical treatment you required. Was medical treatment received?

I Did Not receive medical Attention But as a Result I have been experiencing Paranoia, Mental Depression, Nervousness around other inmates & officers Being Im scared for safety When I was ASSALted I had softness on my left side of my face and experienced a head Ache.

III. Relief: State what relief you are seeking if you prevail on your complaint.

I am seeking monetary relief for damages done to me due to the deliberate infliction of pain and misconduct of the officer, for assaulting me and treating me in a unfair and un professional manner during the performance of the officers official duties

I declare under penalty of perjury that on 7-25-19, I delivered this
complaint to prison authorities at Hazelton USP (date)
(name of prison) to be mailed to the United States District Court for the Eastern District of New York.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 7-25-19


Signature of Plaintiff

USP Hazelton
Name of Prison Facility or Address if not incarcerated

PO Box 2000

Bruceton Mills West Virginia

26525

Address

87652053

Prisoner ID#

UNITED STATES DISTRICT COURT
for the

Xavier oneil)
Plaintiff/Petitioner)
Civil Action No.
Correctional officer S. Rodriguez)
Defendant/Respondent)

APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS
(Short Form)

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested.

In support of this application, I answer the following questions under penalty of perjury:

1. If incarcerated. I am being held at: USP Hazelton.
If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.

2. If not incarcerated. If I am employed, my employer's name and address are:

My gross pay or wages are: \$ a/A, and my take-home pay or wages are: \$ a/A per
(specify pay period) a/A.

3. Other income. In the past 12 months, I have received income from the following sources (check all that apply):

- | | | |
|--|---|--|
| (a) Business, profession, or other self-employment | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| (b) Rent payments, interest, or dividends | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| (c) Pension, annuity, or life insurance payments | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| (d) Disability, or worker's compensation payments | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| (e) Gifts, or inheritances | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| (f) Any other sources | <input checked="" type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

family they send whenever they can save money

4. Amount of money that I have in cash or in a checking or savings account: \$ 0.

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or
thing of value that I own, including any item of value held in someone else's name (describe the property and its approximate
value):

N/A

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses (describe and provide
the amount of the monthly expense):

N/A

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship
with each person, and how much I contribute to their support:

N/A

8. Any debts or financial obligations (describe the amounts owed and to whom they are payable):

N/A

Declaration: I declare under penalty of perjury that the above information is true and understand that a false
statement may result in a dismissal of my claims.

7-23-19

Date:

[Redacted]

XOT

Applicant's signature

Xavier oneil

Printed name

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PRISONER AUTHORIZATION

Case Name:

Xavier Oneil

vs.

(Enter full name of plaintiff(s))

(Enter full name of defendant(s))

Docket Number:

18-CV-3257 (AMO) LB

(Enter the docket number if available; if filing with your complaint, leave blank)

The Prison Litigation Reform Act ("PLRA" or "Act") amended the *in forma pauperis* statute (28 U.S.C. § 1915) and applies to your case. Under the PLRA, you are required to pay the full filing fee when bringing a civil action if you are currently incarcerated or detained in any facility. If you do not have sufficient funds in your prison account at the time your action is filed, the Court must assess and collect payments until the entire filing fee of \$350 has been paid, no matter what the outcome of the action.

SIGN AND DATE THE FOLLOWING AUTHORIZATION:

I, Xavieroneil (print or type your name), request and authorize the facility/institution or agency holding me in custody to send to the Clerk of the United States District Court for the Eastern District of New York, or, if this matter is transferred to another district court, to the Clerk of the transferee court, a certified copy of my prison account statement for the past six months. I further request and authorize the facility or agency holding me in custody to calculate the amounts specified by 28 U.S.C. § 1915(b), to deduct those amounts from my prison trust fund account (or institutional equivalent), and to disburse those amounts to the United States District Court for the Eastern District of New York. This authorization shall apply to any facility or agency into whose custody I may be transferred, and to any other district court to which my case may be transferred and by which my *in forma pauperis* application may be decided.

I UNDERSTAND THAT BY SIGNING AND RETURNING THIS NOTICE TO THE COURT, THE ENTIRE COURT FILING FEE OF \$350 WILL BE PAID IN INSTALLMENTS BY AUTOMATIC DEDUCTIONS FROM MY PRISON TRUST FUND ACCOUNT EVEN IF MY CASE IS DISMISSED.


Signature of Plaintiff

 7-25-19
Date Signed

Prisoner I.D. Number(s)

87652053

Name of Current Facility

 USP
Hazelton

Statement of Claims
Continued

④

first Amendment Retaliation claim continued

After being assaulted, taunted and threatened by Officer Rodriguez I knew I had to do something. I then wrote another letter to the Warden, S.I.S, the shift lieutenant and the officer in charge explaining the incident and reporting officers Rodriguez behavior ^{towards} to me. When this main line occurred the following Wednesday I asked S.I.S and the Warden did they get any of my letters. They both ~~not~~ told me they did ^{not} receive any of my letters which led me to believe someone was throwing my letters away. I told both S.I.S and the Warden to review the cameras because the incident happened on the tier in front of my cell within view of the shift camera's. The next time Officer Rodriguez worked ~~not~~ on the shift range to my tier she came to my cell calling me a snitch. She then told me she had something for me. Which caused me to fear for my safety. Before I reported this incident multiple officers came and spoke to me trying to convince me not to talk saying it was not in my best interest to report the incident. After I reported the incident multiple officers called me a snitch out loud. Officer Rodriguez told other inmates and officers that I was snitching which incited inmates and officers to start calling me a snitch which in turn followed me when I left shift to go back to general population. I would hear people calling me an informant which was absurd because I never was an informant. On Dec 31st 2017 at 1:00-2:00 pm I was assaulted in my cell by an inmate who while assaulting me said this is what I get for snitching. All of this has caused me nervousness, paranoia around other inmates and other officers which points back to the intentional infliction of emotional distress claim.

→ continued

Statement of claims

~~Page~~ 4.

Equal protection clause claim

Officer Rodriguez ASSaulted me with ~~intent~~ Malicious Intent to do harm to me for ~~excess~~ excersing my FIRST Ammendment right of freedom of speech also because I told her she could not refuse to escort me to my visit Officer Rodriguez ~~behavior~~ behaved in a unfair and un proffessional manner In Which she was not trained to do so. Other's similarly situated would not have been treated as I was Because ~~the~~ officers are not trained to act in a unfair and un proffessional manner. Such treatment IS Based on ^{the} officers own malicious Bad faith intent to injure me. The above facts and claims would prove ~~that~~ ^{the} officers Discrimination Intent was un proffessional, malicious and ~~was~~ ~~a~~ Not ~~a~~ Normal Behavior from officers usually treated ~~to~~ towards inmates.

Deliberate Infliction of Pain

ON August 17 Officer S. Rodriguez Deliberately inflicted pain towards me By ASSaulted me with a close fist to my face.

The above Incident happened on August 17 APP "12:00 - 1:00pm at the Metropolitan Detention Center IN BROOKLYN NEWYORK

Statement of Claims

Continued

④

first Amendment Retaliation claim continued.

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Statement of claims

~~for~~ ①

Page 4. Equal protection clause claim

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Xavier ONeal-87652053

GSP Hazelton
P.O Box 2000
Blueston Mills
West Virginia 26525

Clerk of Court
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201

